

REMARKS

Claims 1-3, 6, 7, 15, 22, 28, 29, and 57-60 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Manivasakam et al. (PCT Publication No. WO 2004/030618 A2).¹ Applicants respectfully traverse this rejection.

In order for Manivasakam to qualify as prior art under § 102(a), Manivasakam must necessarily have published prior to the filing date of the instant application. In fact, Manivasakam published after the filing of this application; Manivasakam was published April 15, 2004, while the currently examined application was filed February 12, 2004. Because Manivasakam was not published prior to the filing date of the instant application, it does not qualify as prior art under 35 U.S.C. § 102(a). This rejection should therefore be withdrawn.

Furthermore, Manivasakam does not qualify as anticipatory prior art under 35 U.S.C. § 102(e). A published application may qualify under § 102(e) as novelty-destroying prior art only if that application or a priority application was filed prior to the invention by the current applicants and contained an anticipatory disclosure. Manivasakam claims priority to U.S. Provisional Application Nos. 60/413,040, filed September 24, 2002; 60/417,261, filed October 9, 2002; 60/427,526, filed November 19, 2002; 60/427,424, filed November 19, 2002; and 60/464,753, filed April 23, 2003. Only the '753 application teaches or suggests the combination of a non-steroidal immunophilin-dependent immunosuppressant (NsIDI) and an NsIDI enhancer (NsIDIE). Therefore, based on the filing date of the '753 provisional application, the effective § 102(e) date of Manivasakam is April 23, 2003. However, the currently examined application also claims priority to the '753 application and thus is also entitled to the April 23, 2003 priority date. Therefore, Manivasakam cannot be the basis for rejecting the pending claims for lack of novelty under § 102(e).

¹ The Office incorrectly listed WO 2004/030518 as the publication number of Manivasakam.

INFORMATION DISCLOSURE STATEMENT

Applicants note that Examiner did not consider Raithel et al., submitted in an Information Disclosure Statement on August 1, 2006. The Examiner indicated that this publication would not be considered because the Form 1449 entry did not include a publication date. Raithel et al. was published in Gastroenterology, volume 120 (5 Supplement 1) on page A.280 in April 2001. Applicants respectfully request the Examiner to consider this reference in view of this bibliographical information.

CONCLUSIONS

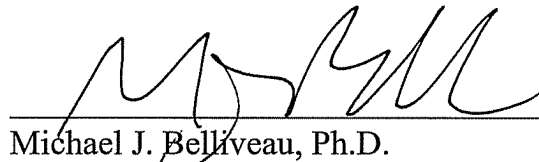
Applicants submit that the claims are in condition for allowance, and such action is respectfully requested.

Submitted herewith is a petition to extend the period for replying for two months, to and including June 30, 2008. If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: _____

6/30/08



Michael J. Belliveau, Ph.D.
Reg. No. 52, 608

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045